

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 977(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 977(b). This opinion has not been certified for publication or ordered published for purposes of rule 977.
--

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

ANTHONY V. FOX,

Plaintiff and Appellant,

v.

LICHTER, GROSSMAN, NICHOLS &
ADLER, INC.,

Defendant and Respondent.

B148488

(Los Angeles County
Super. Ct. No. SC062176)

ORDER MODIFYING OPINION

[NO CHANGE IN JUDGMENT]

It is ordered that the opinion filed herein on January 8, 2003, be modified as follows:

On page 12, delete the first full paragraph (“The transfer of “The Viper Room” name to Trumpet 3-600(E) [obtaining consent from an organization].)”) and replace it with the following paragraph:

The transfer of the “The Viper Room” name to Trumpet and Safe’s consequent payment of royalties do not appear to have been in Safe’s best interest. Lichter may have violated its fiduciary duty to Safe, as well as its duty of loyalty, by participating in the transfer. (See *Cal Pak Delivery, Inc. v. United Parcel Service, Inc.*, *supra*, 52 Cal.App.4th at p. 11; *Forrest v. Baeza*, *supra*, 58 Cal.App.4th at p. 74.)

There is no change in the judgment.

SPENCER, P. J.

MALLANO, J.